

REMARKS

Reconsideration is requested.

Claims 2-7 and 9-11 have been canceled, without prejudice. Claim 12 has been added and finds support in claim 3, which has been canceled above.

Claims 1, 8 and 12 are pending.

The biological material deposited under the conditions of the Budapest Treaty with the C.N.C.M. on December 5, 2002 under No. I-2962 will be irrevocably released upon the grant of a U.S. Patent claiming same.

Claim 1 has been revised to clarify that lactigenes is a species of the genus Exiguobacterium. Withdrawal of the objection to the specification stated on page 2 of the Office Action dated June 27, 2007 is requested.

The objection to claim 3 is moot in view the above amendments.

The objection to the specification stated on page 3 of the Office Action dated June 27, 2007 is moot in view of the above. For completeness, the applicants note that "antecedent basis for the claimed subject matter" in the specification is found in the originally-filed claim 3. The objection is moot as the objected-to subject matter has been canceled, without prejudice.

The above statement with regard to the release of the biologically deposited material is believed to obviate the Section 112, first paragraph, rejection of claims 1-8 stated on pages 4-5 of the Office Action dated June 27, 2007. Withdrawal of the rejection is requested.

To the extent not made moot by the above amendments, the Section 112, first paragraph "written description", rejection of claims 1-7 stated on page 5 of the Office

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Action dated June 27, 2007, is believed to be obviated by the above amendments which delete the objected-to recitations of percentages. Withdrawal of the rejection is requested.

To the extent not made moot or obviated by the above amendments, the Section 112, second paragraph, rejection of the claims, is traversed. The claims are believed to be definite. The applicants believe the metes and bounds of the claimed invention will be clearly distinguished by one of ordinary skill in the art. Withdrawal of the Section 112, second paragraph, rejection is requested.

The Section 101 rejection of claims 1-8 is believed to be obviated by the above amendments. Withdrawal of the rejection is requested.

The Section 102 rejections of claims 1-7 over any of Drancourt (Journal of Clinical Microbiology, Vol. 38, No. 10, October 2000, pages 3623-3630), Farrow (International Journal of Systematic Bacteriology, Vol. 44, No. 1, 1994, pages 74-82) or Fruhling (International Journal of Systematic and Evolutionary Microbiology, Vol. 52, No. 4, July 2002, pages 1171-1176), "in light of" BLAST Basic local alignment search, are obviated by the above amendments. As rejections appear to be based on the stated variability of the sequence in the now-canceled claim(s), the amendments are believed to obviate the Section 102 rejections. Withdrawal of the Section 102 rejections is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned, preferably by telephone, in the event anything further is required to place the application in condition for allowance.

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Respectfully submitted,

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